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UNITED STATES DISTRICT COURT

U. S. DISTRICT COURT EASTERN DISTRICT OF MO ST. LOUIS

EASTERN DISTRICT OF MISSOURI

Ι Case No. s5-4:06cr337 CEJ(United States vs Kaplan) I **Petition Pursuant** I To Rule 32.2(Federal Rules of Criminal I Procedure), and 21 U.S.C.853(n)(1)

I

Petitioner James R. Thompson, proceeding in propria personna as a non-defendant, affected third party in this criminal case, states under penalty of perjury that the following is true and correct:

In 2006, and for approximately the 3 years prior to that, I was the sole owner of account number T10344 maintained by Millennium Sports. Millennium Sports was a wholly owned subsidiary of BetonSports, the company that defendant Gary Stephen Kaplan operated, and which is the subject of the case captioned above. My dollar balance in that account was approximately \$4,240.88(four thousand two hundred forty dollars and eighty eight cents). When BetonSports executive David Carruthers was arrested in the United States in mid-2006, this account was immediately frozen, and I have never been able to redeem any funds from this account.

I have proceeded through Vantis, the British Accountants attempting to process account claims under the BetonSports umbrella. My Vantis reference number is 54535. I have received no reimbursements of any kind from Vantis, or any other source in this matter.

I claim \$4,240.88, together with accrued interest at a rate to be determined

by the Court, of the \$43,650,000 which was transferred to the United States in this matter. This claim is based on the fact that account holders of the BetonSports companies, including petitioner, have a right which is vested, and is superior to the United States, because those account holders are bonafide legal and equitable creditors of the Kaplan/BetonSports companies.

This claim is further based on the existence of a constructive trust which holds the Kaplan funds, this constructive trust being necessary to prevent the unjust enrichment of the United States at the expense of creditors of Kaplan and the BetonSports umbrella companies.

This claim is further based on the maxim that "equity abhors a forfeiture", as it would be inequitable and unjust for the account holders of the Kaplan companies to be deprived of their funds, with the United states being unjustly enriched by that forfeiture.

The above is true and correct. Executed under penalty of perjury this 434 day of September, 2009, in Berkeley, California.

James R. Thompson

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Proof of service. Copies mailed to:

Clerk of the Court

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